

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES  
NUMBER 28988

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This is a summary of a Settlement Agreement entered into at the June 2014 hearings of the Disciplinary and Ethics Commission (“DEC”) of Certified Financial Planner Board of Standards, Inc. (“CFP Board”). The conduct at issue in this case occurred after January 1, 2009. The Rules in effect at that time under the *Rules of Conduct* were Rules 1.1 through 6.5.

I. Issue Presented

Whether a CFP® professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he pleaded guilty to Driving While Intoxicated, resulting in his third alcohol-related criminal conviction.

II. Findings of Fact

According to Respondent, he and his girlfriend had several drinks and a bottle of wine during dinner. After dinner, Respondent and his girlfriend drank additional alcoholic beverages at a bar. In June 2013 after 12a.m., a police officer pulled Respondent over for a traffic violation as Respondent was driving home. The police officer noted in his report that the “vehicle being driven by [Respondent] did not stop at stop sign and then jumped a curb while trying to turn right.” Respondent refused the police officer’s requests that he perform field sobriety tests and take a Breathalyzer blood alcohol test.

In January 2014, Respondent pleaded guilty to and was convicted of Driving While Intoxicated, a Class A Misdemeanor. The court fined Respondent \$1,250 and suspended his driver’s license for six months. Respondent paid his fine and costs totaling \$1,645.10. Class A Misdemeanors are punishable by a fine up to \$4,000 and up to one year in jail. This conviction was Respondent’s third alcohol-related criminal conviction investigated by CFP Board.

*2005 CFP Board Case*

In June 2005, Respondent completed his Initial Application for CFP® Certification and did not disclose his involvement in any criminal matters. CFP Board discovered that Respondent was charged with Driving While Impaired in December 1986. In May 1987, the court reduced the charge to public intoxication. Respondent was convicted of public intoxication, a Class C Misdemeanor. Class C Misdemeanors are punishable by a fine up to \$500. In July 2005, CFP Board closed the case and cautioned Respondent as to the importance of his disclosure obligations.

*2009 CFP Board Case*

In February 2009, Respondent disclosed on his Renewal Application that he was arrested in January 2009 for driving while intoxicated. In April 2009, State charged Respondent with Driving While Intoxicated, a Class B Misdemeanor. Class B Misdemeanors are punishable by a fine up to \$2,000 and up to 180 days in jail. In November 2009, Respondent was convicted of Driving While Intoxicated and placed on community supervision for 18 months. In January 2010, CFP Board closed the case and cautioned

Respondent against engaging in conduct that reflects adversely on his integrity and fitness as a CFP® professional, upon the CFP® marks and upon the profession.

### III. Rule Violations

- A. *Rule 6.5 – A certificant shall not engage in conduct which reflects adversely on his or her integrity or fitness as a certificant, upon the CFP® marks, or upon the profession.*

Respondent engaged in conduct that reflects adversely on his integrity and fitness as a certificant, upon the CFP® marks and upon the profession when he drove a vehicle while he was intoxicated and was convicted of Driving While Intoxicated, his third alcohol-related criminal conviction. Thus, Respondent violated Rule 6.5 of the *Rules of Conduct*.

### IV. Discipline Imposed

The Commission found grounds for discipline under Articles 3(a) and 3(c) of CFP Board's *Disciplinary Rules and Procedures* ("*Disciplinary Rules*"). Article 3(a) of CFP Board's *Disciplinary Rules* provides grounds for discipline for any act or omission that violates the *Rules of Conduct*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rule 6.5 of the *Rules of Conduct*. Article 3(c) of the *Disciplinary Rules* establishes grounds for discipline for any act that violates the criminal laws of any state or of the United States or of any province, territory or jurisdiction of any other country. The Commission and Respondent entered into a Settlement Agreement in which Respondent consented to the Findings of Fact and Rule Violations. Based on the terms of the Settlement Agreement, the Commission issued to Respondent a Public Letter of Admonition, pursuant to Article 4.2 of the *Disciplinary Rules*.

In aggravation, the Commission considered that:

1. The 2014 conviction was Respondent's second DWI conviction within five years and his third alcohol related conviction overall;
2. There appeared to be a pattern of this type of conduct; and
3. CFP Board cautioned Respondent previously regarding this type of conduct.

The Commission considered in mitigation that:

1. The 1987 conviction occurred 27 years prior to the hearing;
2. Respondent's conduct resulted in no client harm; and
3. Despite apparent alcohol-related issues, Respondent appears to be able to function professionally as there have been no client or employment-related issues.

In reaching its decision, the Commission consulted Anonymous Case Histories 21533, 22005, 22598, 28221, 28598 and 26986 as well as *Sanction Guideline 24* (Misdemeanor Criminal Conviction). The Commission noted that it was concerned about Respondent's pattern of alcohol-related conduct and strongly urged him, for the safety of himself and the public, to seek intervention to address his alcohol issues.